STATE OF NEW YORK

11065

IN ASSEMBLY

April 24, 2026

Introduced by M. of A. LEVENBERG -- read once and referred to the Committee on Judiciary

AN ACT to amend the civil practice law and rules, in relation to certain actions arising from construction defects in condominiums

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The civil practice law and rules is amended by adding a new article 14-B to read as follows:

ARTICLE 14-B
CONDOMINIUM CONSTRUCTION DEFECT ACTIONS

Section 1450. Legislative declaration.
1451. Definitions.
1452. List of defects required.
1453. Notice of claim process.
1454. Restriction on construction defect negligence claims.
1455. Express warranty; not affected.

§ 1450. Legislative declaration. The legislature hereby finds, declares, and determines that changes in the law are necessary and appropriate concerning actions claiming damages, indemnity, or contribution in connection with alleged construction defects. It is the intent of the legislature that this article apply to these types of civil actions while preserving adequate rights and remedies for condominium owners who bring and maintain such actions.

§ 1451. Definitions. For the purposes of this article:

(a) "Action" means a civil action or an arbitration proceeding for damages, indemnity, or contribution brought against a construction professional to assert a claim, counterclaim, cross-claim, or third-party claim for damages or loss to, or the loss of use of, real or personal property or personal injury caused by a defect in the design or construction of an improvement to a condominium.

(b) "Actual damages" means the fair market value of the condominium without the alleged construction defect, the replacement cost of the

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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condominium, or the reasonable cost to repair the alleged construction defect, whichever is less, together with relocation costs, and, with respect to residential property, other direct economic costs related to loss of use, if any, interest as provided by law, and such costs of suit and reasonable attorney fees as may be awardable pursuant to contract or applicable law. "Actual damages" as to personal injury means those damages recoverable by law.

(c) "Claimant" means a person other than the attorney general or the district attorneys of the judicial districts of the state who asserts a claim against a construction professional that alleges a defect in the construction of an improvement to a condominium.

(d) "Construction professional" means an architect, contractor, subcontractor, developer, builder, builder vendor, engineer, or inspector performing or furnishing the design, supervision, inspection, construction, or observation of the construction of any improvement to a condominium. If the improvement to a condominium is to a commercial property, the term "construction professional" shall also include any prior owner of the commercial property, other than the claimant, at the time the work was performed. As used in this subdivision, "commercial property" means property that is zoned to permit commercial, industrial, or office types of use.

(e) "Notice of claim" means a written notice sent by a claimant to the last known address of a construction professional against whom the claimant asserts a construction defect claim that describes the claim in reasonable detail sufficient to determine the general nature of the defect, including a general description of the type and location of the construction that the claimant alleges to be defective and any damages claimed to have been caused by the defect.

§ 1452. List of defects required. (a) In addition to the notice of claim required by section fourteen hundred fifty-three of this article, in every action brought against a construction professional, the claimant shall file with the court or arbitrator and serve on the construction professional an initial list of construction defects in accordance with this section.

(b) The initial list of construction defects shall contain a description of the construction that the claimant alleges to be defective. The initial list of construction defects shall be filed with the court and served on the defendant within sixty days after the commencement of the action or within such longer period as the court in its discretion may allow.

(c) The initial list of construction defects may be amended by the claimant to identify additional construction defects as they become known to the claimant. In no event shall the court allow the case to be set for trial before the initial list of construction defects is filed and served.

(d) If a subcontractor or supplier is added as a party to an action under this section, the claimant making the claim against such subcontractor or supplier shall file with the court and serve on the defendant an initial list of construction defects in accordance with this section within sixty days after service of the complaint against the subcontractor or supplier or within such longer period as the court in its discretion may allow. In no event shall the filing of a defect list under this subdivision delay the setting of the trial.

§ 1453. Notice of claim process. (a) No later than seventy-five days before filing an action against a construction professional, or no later than ninety days before filing the action in the case of a commercial

property, a claimant shall send or deliver a written notice of claim to the construction professional by certified mail, return receipt requested, or by personal service.

(b) Following the mailing or delivery of the notice of claim, at the written request of the construction professional, the claimant shall provide the construction professional and its contractors or other agents reasonable access to the claimant's property during normal working hours to inspect the property and the claimed defect. The inspection shall be completed within thirty days of service of the notice of claim.

(c) Within thirty days following the completion of the inspection process conducted pursuant to subdivision (b) of this section, or within forty-five days following the completion of the inspection process in the case of a commercial property, a construction professional may send or deliver to the claimant, by certified mail, return receipt requested, or personal service, an offer to settle the claim by payment of a sum certain or by agreeing to remedy the claimed defect described in the notice of claim. A written offer to remedy the construction defect shall include a report of the scope of the inspection, the findings and results of the inspection, a description of the additional construction work necessary to remedy the defect described in the notice of claim and all damage to the improvement to the condominium caused by the defect, and a timetable for the completion of the remedial construction work.

(d) Unless a claimant accepts an offer made pursuant to subdivision (c) of this section in writing within fifteen days of the delivery of the offer, the offer shall be deemed to have been rejected.

(e) A claimant who accepts a construction professional's offer to remedy or settle by payment of a sum certain a construction defect claim shall do so by sending the construction professional a written notice of acceptance no later than fifteen days after receipt of the offer. If an offer to settle is accepted, then the monetary settlement shall be paid in accordance with the offer. If an offer to remedy is accepted by the claimant, the remedial construction work shall be completed in accordance with the timetable set forth in the offer unless the delay is caused by events beyond the reasonable control of the construction professional.

(f) If no offer is made by the construction professional or if the claimant rejects an offer, the claimant may bring an action against the construction professional for the construction defect claim described in the notice of claim, unless the parties have contractually agreed to a mediation procedure, in which case the mediation procedure shall be satisfied prior to bringing an action.

(g) If an offer by a construction professional is made and accepted, and if thereafter the construction professional does not comply with its offer to remedy or settle a claim for a construction defect, the claimant may file an action against the construction professional for claims arising out of the defect or damage described in the notice of claim without further notice.

(h) After the sending of a notice of claim, a claimant and a construction professional may, by written mutual agreement, alter the procedure for the notice of claim process described in this section.

(i) Any action commenced by a claimant who fails to comply with the requirements of this section shall be stayed, which stay shall remain in effect until the claimant has complied with the requirements of this section.

(j) A claimant may amend a notice of claim to include construction defects discovered after the service of the original notice of claim.

However, the claimant must otherwise comply with the requirements of this section for the additional claims.

(k) For purposes of this section, actual receipt by any means of a written notice, offer, or response prepared pursuant to this section within the time prescribed for delivery or service of the notice, offer, or response shall be deemed to be sufficient delivery or service.

(l) A claimant shall not recover more than actual damages in an action.

§ 1454. Restriction on construction defect negligence claims. (a) No negligence claim seeking damages for a construction defect may be asserted in an action if such claim arises from the failure to construct an improvement to the condominium in substantial compliance with an applicable building code or industry standard; except that such claim may be asserted if such failure results in one or more of the following:

1. Actual damage to real or personal property;

2. Actual loss of the use of real or personal property;

3. Bodily injury or wrongful death; or

4. A risk of bodily injury or death to, or a threat to the life, health, or safety of, the occupants of the residential condominium.

(b) Nothing in this section shall be construed to prohibit, limit, or impair the following:

1. The assertion of tort claims other than claims for negligence;

2. The assertion of contract or warranty claims; or

3. The assertion of claims that arise from the violation of any statute or ordinance other than claims for violation of a building code.

§ 1455. Express warranty; not affected. The provisions of this article are not intended to abrogate or limit the provisions of any express warranty or the obligations of the provider of such warranty. The provisions of this article shall apply to those circumstances where an action is filed asserting one or more claims for relief including a claim for breach of warranty. The provisions of this article shall not be deemed to require a claimant who is the beneficiary of an express warranty to comply with the notice provisions of section fourteen hundred fifty-three of this article to request ordinary warranty service in accordance with the terms of such warranty. A claimant who requires warranty service shall comply with the provisions of such warranty.

§ 2. This act shall take effect immediately.